



## Staff Report

**TO:** City Council  
**FROM:** Robert L. Vestal, Public Works Director  
**DATE:** September 3, 2024  
**SUBJECT:** Beaumont-Cherry Valley Water District Annual Encroachment Cooperative Agreement

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**Description** Establish an Annual Encroachment Cooperative Agreement (Annual Permit) for Beaumont-Cherry Valley Water District (BCVWD) regarding right-of-way encroachments and pavement restoration.

### **Background and Analysis:**

The California Legislature, in enacting the Public Utilities Code (commencing with Section 10001) explicitly authorized the City to require encroachment permits to regulate the terms and conditions of street excavation by utilities owned by “municipal corporations” as that term is broadly defined to include cities, counties, water districts and irrigation districts like the BCVWD. Further, the California Legislature enacted Streets & Highways Code section 1921 providing cities authority over maintenance of city streets: “*The governing body of any city shall have jurisdiction to prescribe the requirements for maintenance, including the maintenance of drainage, of all streets within the limits of the city.*”

In 1982, City Council adopted Chapter 12.12, “Excavations,” of the Beaumont Municipal Code (BMC) through Ordinance No. 544 to regulate the use of City streets for excavations and encroachments, maintenance, planting and removal of trees, and the issuance, modification, and revocation of permits for such uses.

On November 19, 2019, City Council adopted Chapter 12.31, “Street Cut Moratorium,” of the BMC through Ordinance No. 1113. The moratorium requires that no trenching or excavation shall be permitted in any street that has been newly constructed, or reconstructed, for a period of five (5) years after completion of, or from recordation of a notice of completion. For streets that have been recently slurry sealed, fog sealed, or other surface additive, the pavement surface shall not be cut or opened for a period of three (3) years from completion. The City Engineer may grant exceptions to the moratorium for emergencies that endanger life or public health and safety; work that is

mandated by City, State, or Federal legislation; and services to buildings or properties where no other reasonable means of providing service exists.

### Beaumont-Cherry Valley Water District

Since 2020, BCVWD has obtained approximately 224 separate permits in accordance with Beaumont Municipal Code section 12.12. Out of those permits, 94 permits occurred within moratorium streets and were granted an exception. The average annual number of permits for BCVWD is 61. Refer to Table 1 for a summary of encroachment permits.

Per the City’s adopted fee schedule, an encroachment permit is subject to an application fee of \$60, the actual cost of office staff time, and a deposit for the City inspector's time. A typical fee for a non-moratorium BCVWD permit is \$500. A typical fee for a moratorium BCVWD permit is \$660. Moratorium permits generally require additional inspection time to ensure compliance with BMC. The average annual cumulative City fee for permits and associated City inspections is approximately \$20,000.

For each BCVWD permit, the City spends approximately one hour of office time and approximately two to four hours for inspection. On average, the City annually spends 61 hours of office time and 151 hours of inspection time on BCVWD permits (212 hours total).

Table 1 – Summary of Encroachment Permits

Description	2020	2021	2022	2023	2024	Total	3-Year Average (2021-2023)
<u>All Permits</u>							
# of permits	241	205	324	276	154	1200	268
<u>BCVWD Permits</u>							
# of permits	8	66	74	42	34	224	61
<u>BCVWD Permit</u>							
City Fees (\$)	\$400	\$3,300	\$26,549	\$29,230	\$16,208	\$75,688	\$19,693
<u>BCVWD Permits</u>							
City Time (hrs)	28	231	259	147	119	784	212

BCVWD has requested the City consider entering into a Cooperative Agreement to facilitate an Annual Permit. City staff worked with BCVWD staff to develop a mutually beneficial Annual Permit. Refer to Attachment A for the Annual Permit and supporting documents. The following is a summary of the significant terms of the Annual Permit:

- Effective for one year (Initial Term)
- City Council may extend one year (Renewal Term)
  - a. Both parties shall evaluate the effectiveness of the agreement
- City Manager may extend subsequent years (Renewal Term(s))
- BCVWD shall be responsible for providing appropriate traffic control and insurance
- BCVWD shall make repairs in accordance with the mutually agreed-upon standards shown and referenced in the agreement
- City shall permit BCVWD to repair moratorium streets in accordance with the mutually agreed-upon standards shown and referenced in the agreement
- City shall permit BCVWD to operate under modified Street Cut Moratorium requirements as defined in Annual Permit
- BCVWD shall warranty the trench repair and applicable portion of public street
- BCVWD shall self-inspect all work
- City reserves the right to inspect all work at the City's cost
- BCVWD shall notify the City of all encroachment work
- BCVWD shall pay the City \$3,660 annually plus cumulative annual CPI adjustment after the Initial Term
- BCVWD shall indemnify the City

The city attorney has reviewed the proposed agreement as presented.

**Fiscal Impact:**

The estimated cost to prepare this staff report is \$2,500.

All fees related to the Annual Permit will be deposited into the General Fund via account GL100-0000-4325-0000. City inspections, if any, will be paid through the Public Works Department's operational budget.

**Recommended Action:**

Authorize the City Manager to execute the City of Beaumont & Beaumont Cherry Valley Water District Cooperative Agreement Regarding Right-of-Way Encroachments & Pavement Restoration.

**Attachments:**

- A. Agreement